

- 17.5.1 Employees hired on or after July 1 shall be entitled to only eight (8) hours of personal leave in the first payroll calendar year of employment.

ARTICLE 18 SICK LEAVE

- 18.1 Each full-time employee shall be entitled to sick leave with pay in accordance with the following provisions:

- 18.1.1 Sick leave shall accrue in an amount equal to the number of hours worked, excluding overtime, multiplied by a factor of 0.04616. Only paid leave for holidays, vacation, disability, compensatory time off, personal leave, or other paid leave shall be considered as time worked for purposes of this section.

- 18.1.2 Accrued sick leave may be utilized if the employee is required to be absent from work on account of non-job related illness or injury; routine medical or dental appointments; or for the care related to the illness of the employee's child, mother, father, spouse, or domestic partner registered with the Department of Employee Services.

Up to 48 hours of accrued sick leave per calendar year may be utilized if the employee is required to be absent for the care related to the illness or injury of the employee's grandchild, brother, sister, father-in-law, mother-in-law, stepfather, stepmother or stepchild.

The provisions of this section related to the use of sick leave for the care related to the illness or injury of the employee's family members as defined above shall expire at the end of the term of this Agreement. In the negotiations for a successor Agreement, the parties shall review and evaluate the appropriateness of this benefit.

- 18.1.2.1 Accrued sick leave may also be utilized for job-related illness or injury in accordance with the provisions of Article 19 Disability Leave, 19.7.1 or if the employee is medically required to be absent from work between the date an examining physician determines the employee's condition to be "permanent and stationary" and the date the employee is so notified. Such accrued sick leave may not be utilized if the employee is otherwise entitled to temporary disability leave compensation for the above referenced period of time.

Accrued sick leave not to exceed three (3) working days may be granted at the discretion of the Department Director or his/her designated representative, following the notification referred to above. Telephone notice or a notice mailed to the employee's last known address of record shall be determined notice to the employee.

- 18.1.2.2 Accrued sick leave not to exceed three (3) working days may be granted in circumstances where an alleged job-related illness or injury is involved, but the employee fails to provide medical verification of such job-related illness or injury.

- 18.1.2.3 Anything in this Article to the contrary notwithstanding, an employee who, pursuant to the provisions of Article 19 of this Agreement, has been receiving temporary disability leave compensation and who has received the maximum allowable amount of such compensation pursuant to Article 19, and who is entitled to Workers' Compensation temporary disability benefits, and has exhausted all other available leave shall be permitted to utilize accrued sick leave subject to the following restrictions: sick leave shall be utilized in one-half (1/2) hour increments, but in no event shall an employee receive an amount, including any Workers' Compensation temporary disability compensation, in excess of such employee's regular base pay.
- 18.1.2.4 Accrued sick leave also may be used in accordance with Article 25, Catastrophic Illness.
- 18.1.3 Except as otherwise provided by resolution of the City Council, paid sick leave shall not be allowed for any absence from work occasioned by intoxication, chronic alcoholism or use of narcotics not prescribed by a licensed physician. If approved by the City, an employee who is enrolled and participating in a substance abuse treatment program may use sick leave for absences resulting from participation in such a program. The City may require appropriate verification.
- 18.1.4 No employee shall be entitled to or be granted sick leave, either with or without pay, unless he or she, or someone on his or her behalf, notifies his or her immediate supervisor or Department Head of his or her intent to take such sick leave, and of the reasons therefore, prior to or within one (1) hour after the commencement of the sick leave provided, however, that the City Manager may waive the requirement of such notice upon presentation of a reasonable excuse of such employee. Departments may require an earlier call-in (prior to the start of the shift) where work crew situation or other departmental needs require. Departments that require early call-in will have a phone recorder or a person assigned to accept calls with 24-hour coverage.
- 18.1.5 An employee may be required to furnish substantiation for any absence for which sick leave payment is requested.
- 18.1.6 A full-time employee of the City shall be entitled to sick leave without any pay if required to be absent from work on account of any non-job related illness, injury or disability, including absences of female employees related to pregnancy or childbirth in all situations where such employee is not entitled to sick leave with pay. Any full-time employee who is unable to return to work after being absent on unpaid sick leave for twelve (12) cumulative months in any period of eighteen (18) consecutive months shall be considered to have voluntarily resigned. The City shall give the employee reasonable notice of its intent to apply this rule prior to processing a termination. Such resignation shall be considered a resignation in good standing and the employee shall therefore be eligible to apply for re-employment pursuant to San Jose Municipal Code Section 3.04.1530.
- 18.2 Sick leave payoff shall be given to each full-time employee at the time of retirement or death under one of the following conditions:

18.2.1 Federated Retirement Plan

The employee is:

- 18.2.1.1 a member of the Federated Retirement Plan, and
- 18.2.1.2 retired under the provisions cited in the plan, and
- 18.2.1.3 credited with at least fifteen (15) years of service in this retirement plan, or
- 18.2.1.4 credited with at least ten (10) years of service prior to a disability retirement.

18.2.2 Terminated Employee with Vesting Rights

The employee has:

- 18.2.2.1 terminated his/her service with the City, and
- 18.2.2.2 retained vesting rights in a retirement system according to provisions in the San Jose Municipal Code, and
- 18.2.2.3 following such termination, qualifies for retirement and retires under the provisions cited in the code, and
- 18.2.2.4 has at the time of retirement credit for at least fifteen (15) years of service in the applicable retirement plan.

18.2.3 Death During Service

The estate of any full-time employee who dies while in City service and prior to retirement, even though the employee is not credited with at least fifteen (15) years of service in any applicable retirement plan.

18.2.4 Death of Terminated Employee

The estate of any full-time employee who:

- 18.2.4.1 had terminated service with the City but had retained vesting rights in a retirement system according to provisions in the San Jose Municipal Code, and
- 18.2.4.2 dies prior to becoming eligible for retirement allowances as cited under provisions of the San Jose Municipal Code, and
- 18.2.4.3 has at the time of death credit for at least fifteen (15) years of service in the applicable retirement plan.

- 18.3 Employees who were brought into the City under the consolidation of the communications function will be able to use their County service as credit toward meeting the eligibility requirement for this sick leave pay out per Ordinance 22314.

- 18.4 Payout shall be determined as follows; If a full-time employee at the time of his/her retirement or death has earned, unused sick leave hours, he/she shall be paid the equivalent of a specific percent of his/her hourly rate of pay at the time of retirement, termination or death, whichever comes first, multiplied by the total number of his/her accumulated and unused hours of sick leave as of the date of his/her retirement or death as follows:

Less than 400 hours: Total hours accumulated x 50% of final hourly rate.

or 400 but less than 800 hours: Total hours accumulated x 60% of final hourly rate.

or 800 - 1200 hours: Total hours accumulated x 75% of final hourly rate.

- 18.5 Use of previously accumulated sick leave hours:

For purposes of determining the total number of accumulated and unused hours of sick leave of a full-time employee at the time of his/her retirement or death, unused sick leave from prior periods of employment with the City shall be used. Previously accumulated sick leave shall be credited to the employee for use during an employee's current employment period.

ARTICLE 19 DISABILITY LEAVE

- 19.1 Disability Leave Supplement (DLS)

Disability Leave Supplement (DLS) is the benefit provided pursuant to this Article, which when added to Worker's Compensation Temporary Disability (WCTD) results in providing employees 85% of their regular base salary.

- 19.2 Eligibility for Disability Leave Supplement

19.2.1 After the initial three day waiting period has been met, and the employee otherwise qualifies for DLS, the employee may utilize DLS for absences required for medical visits related to the injury after his/her return to work if he/she is unable to schedule such visits on non-work hours. DLS for such intermittent absences is subject to authorization by the Worker's Compensation Section. In no event may DLS exceed the limit specified in 19.6.

A full-time employee who is required to be absent from work due to a job related injury or industrial illness and who receives WCTD payments pursuant to Division 1 or Division 4 of the California Labor Code is eligible for DLS. DLS shall be paid only for such period of time as WCTD payments are made. In the event an employee is not eligible for WCTD payments because of the statutory waiting period, DLS shall not be paid for such a waiting period. The employee may use sick leave to cover the waiting period.

- 19.3 Eligibility for Disability Leave Supplement Linked to Temporary Disability

If the Workers' Compensation Appeals Board of the State of California or any judicial court having jurisdiction should determine that the employee is not entitled to temporary disability (WCTD) compensation, the employee shall not be entitled to Disability Leave Supplement (DLS) benefits. Under such circumstances, any DLS moneys paid to the employee by the city must be returned to the City within one (1) year.